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## État présent

### Reparations for Slavery in the French Republic: A National Debate?<sup>1</sup>

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#### Introduction: A National Debate?

The past twenty years have given rise to an enormous volume of memory work relating to the European-led slave trade and its systems of enslavement. This has sought to redress the failure to recognize the importance of this history in shaping modern and contemporary society. At the heart of this movement lies the work of social movements dedicated to seeking recognition for slavery and its ongoing repercussions in contemporary society. But while the importance of memory has been largely recognized, reparations remain a political taboo. As yet, none of the former states involved in the enslavement of African, Indian, Malagasy and other indigenous peoples have been willing to engage in discussions, and France is no exception, even if it is the only European country to have passed a national law recognizing slavery as a crime against humanity.<sup>2</sup> Faced with widespread hostility and suspicion, reparations have not been subject to any official public debate in France. As such, to provide an *état présent* of the reparations 'debate' is to piece together a discussion that does not officially exist and that has been repeatedly silenced, quite unlike the so-called 'guerre de mémoire' of 2005–2006 that led to an entire 'Mission d'information sur les questions mémorielles' or, indeed, the 'Mission d'étude sur la spoliation des Juifs de France' that endorsed the restitution of stolen Jewish goods and laid the groundwork for monetary reparations to be paid to the orphaned descendants of those who had been murdered in the Holocaust.<sup>3</sup>

Political silence has meant that reparations where slavery is concerned have become a largely misunderstood and misrepresented subject that tends to provoke uninformed knee-jerk responses from public and politicians alike. The interest in assessing the state of this 'debate' thus lies first in understanding the work of social actors and the multiple strategies used to legitimize their struggle, and second in identifying the repeated attempts of the French state to shut the debate down and deform its content by any and all means possible. To that end, this article will look at four separate occasions when reparations have been subjected to limited public and/or political scrutiny: first, during the debates over the wording of the Taubira law (1998–2001); second, during the bicentenaries of the death of Toussaint Louverture and the Haitian Revolution (2003–2004); third, after the first legal attempts to hold the French state to account (2005–); and fourth, during Hollande's presidency (2012–2017) when the question of reparations was raised each year alongside France's national day for remembering slavery, the slave trade and their abolitions (10 May). The purpose of this article is therefore to explore the ways

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<sup>1</sup> This work was supported by the Arts and Humanities Research Council Research Network Grant AH/P007074/1.

<sup>2</sup> 'Loi n° 2001-434 du 21 mai 2001 tendant à la reconnaissance de la traite et de l'esclavage en tant que crime contre l'humanité', 21 May 2001, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000405369> (accessed 25 September 2015).

<sup>3</sup> Bernard Accoyer, 'Rapport d'information au nom de la Mission d'information sur les questions mémorielles', 18 November 2008, <http://www.ladocumentationfrancaise.fr/rapports-publics/084000719/index.shtml> (accessed 7 September 2017). Jean Matteoli, 'Mission d'étude sur la spoliation des Juifs de France: Rapport général', December 2000, <http://www.ladocumentationfrancaise.fr/rapports-publics/004000897/index.shtml> (accessed 4 September 2017); Décret n°2000-657 du 13 juillet 2000 instituant une mesure de réparation pour les orphelins dont les parents ont été victimes de persécutions antisémites, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000582825> (accessed 4 September 2017). See also *Les guerres de mémoires: La France et son histoire, Enjeux politiques, controverses historiques, stratégies médiatiques*, ed. by Pascal Blanchard and Isabelle Veyrat-Masson (Paris: La Découverte, 2008).

in which this ‘debate’ is circumscribed by a political refusal that has sought to delegitimize the internationally-recognized concept of reparations for crimes against humanity.

### **Reparations: Defining a Global Social Movement**

Before examining the subject of reparations for slavery within the context of the French Republic, it is worth providing a working definition of this term and outlining the broader international and historical contexts from which social movements relating to reparations have emerged. A useful and necessarily open definition is attempted by Appiah who reminds us that reparations tend to operate within a ‘territoire moral’ and are driven by a desire to repair the damage caused to a victim after injury. Although he does not conclude in favour, he nonetheless suggests three possible ways that repair might be achieved: through the return of material goods and access to resources; through the recognition of responsibility for the wrong committed; and through the reconciliation of relations adversely affected as a result of the harm inflicted.<sup>4</sup> Appiah’s rejection of reparations is reflective not only of their potential inadequacies to deal with the trauma of a crime against humanity, but also of the fact that this ‘belated’ struggle is being carried forward by what Terray terms ‘victimes indirectes’ who cannot hope to represent the victims of the past.<sup>5</sup>

Such an argument fails to recognize fully the consequences of enslavement and its links to contemporary socio-economic and discriminatory issues.<sup>6</sup> Moreover, reparation activism has arisen due to the failure of the different states to provide reparations to the formerly enslaved alongside abolition. For example, during the debates over abolition in France, the question of reparations, although briefly raised by the abolitionist Victor Schœlcher, was pushed aside in favour of indemnity payments to the former slave owners (echoing the 1833 Slavery Abolition Act in Britain).<sup>7</sup> Instead of payment, those who had suffered under slavery received the ‘gift’ of freedom, and as Vergès notes, ‘qui dit don dit dette — dette dont les affranchis doivent s’acquitter en devenant de bons colonisés, de bons chrétiens, de bons travailleurs’.<sup>8</sup> Indeed, it was not until 1946, with the departmentalization law ending colonial rule over the French plantation colonies and the Houphouët-Boigny law abolishing forced labour in the overseas territories, that universal rights would be granted to all French citizens.<sup>9</sup>

In the US, the 13th amendment (1865) abolishing slavery at the end of the Civil War also resulted in compensation payments being made to the former slave owners. But unlike the French and British colonies, abolition led to the establishment of the Freedmen’s Bureau; a US federal government agency that was supposed to administer reparations in the form of ‘40 acres and a mule’ to freedmen and women during the Reconstruction era. As W.E.B. Du Bois commented, the Bureau failed on numerous fronts, not least of which was ‘to carry out to any considerable extent its implied promises to

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<sup>4</sup> Kwame Anthony Appiah, ‘Comprendre les réparations: Une réflexion préliminaire’, *Cahiers d’Études africaines*, 44 (2004), 25–40 (pp. 26–29).

<sup>5</sup> Emmanuel Terray, *Face aux abus de mémoire* (Paris: Stock, 2006), p. 22.

<sup>6</sup> While Appiah acknowledges some of these consequences, he also dismisses them by stating that ‘globalement parlant, dans le Nouveau monde, le racisme n’est qu’historiquement et faiblement lié à l’esclavage’; Appiah, p. 32.

<sup>7</sup> Françoise Vergès, *Abolir l’esclavage: Une utopie coloniale. Les ambiguïtés d’une politique humanitaire* (Paris: Albin Michel, 2001), p. 183. See also Laurent Blériot, ‘La loi d’indemnisation des colons du 30 avril 1849: aspects juridiques’, *Contributions à l’histoire de l’esclavage. Revue historique des Mascareignes*, 2 (2000), 147–61. It is worth noting that the first slavery abolition decree of 4 February 1794 rejected the idea of paying indemnities to the former masters.

<sup>8</sup> Vergès, p. 184. Schmidt describes the situation in France’s colonies after abolition for ‘[ceux] qu’on appela les “nouveaux libres” [qui] se virent exclus de toute décision, de tout débat, de tout choix réel [...], malgré l’exercice du suffrage “universel” et la façade démocratique qu’il suggérait’; Nelly Schmidt, *La France a-t-elle aboli l’esclavage? Guadeloupe-Martinique-Guyane (1830–1935)* ([N.p.]: Perrin, 2009), p. 227.

<sup>9</sup> Loi n° 46-451 du 19 mars 1946 tendant au classement comme départements français de la Guadeloupe, de la Martinique, de la Réunion et de la Guyane française, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000868445> (accessed 17 August 2017); Loi No 46-645 du 11 avril 1946 tendant à la suppression du travail forcé dans les territoires d’outre-mer, <https://www.contreculture.org/AL%20Abolition%20du%20travail%20forc%E9.html> (accessed 17 August 2017).

furnish the freedmen with land'.<sup>10</sup> Its untimely closure in 1872, long before its work was complete, left 'a legacy of striving for other men', which stimulated the early African-American struggles for reparations that continue to the present-day.<sup>11</sup>

If the exact conditions of abolition differed from one colony and country to another, commonalities can be nonetheless be identified in the repeated failure of imperialist and federal governments to provide the necessary socio-economic systems and protective structures for those who had been freed, and to find effective ways of encouraging social advancement to lead to de facto equality.<sup>12</sup> By the end of the twentieth century, shared grievances among colonized and oppressed peoples led to the establishment of the first transnational efforts to unite pan-Africanists through the Pan-African Conferences (PACs) held in 1900 (London), 1921 (London, Paris, Brussels), 1923 (London, Lisbon), 1927 (New York) and, most importantly, in 1945 (Manchester). These events (especially the fifth) effectively 'marked the beginning of the end of European colonial rule in Africa and the Caribbean', as well as the consolidation of a growing pan-African social movement out of which contemporary movements for reparations would emerge.<sup>13</sup>

The Abuja Proclamation represents a key moment in this history. In December 1990, the First International Conference on Reparations, held in Lagos, led to the creation the Group of Eminent Persons (GEP), set up by the Organization of African Unity (OAU). Its remit was 'to pursue the goal of reparations to Africa', with precedents being offered by the 'reparations to Jews for the Holocaust, and the movement in the United States for reparations to African-Americans'.<sup>14</sup> Its lasting significance lies, however, in having established 'the legitimacy of a transnational movement for reparations'.<sup>15</sup> In 1993, a second conference was held in Abuja, sponsored by the GEP, which resulted in the issuing of the Abuja Proclamation calling 'upon the international community to recognize that there is a unique and unprecedented moral debt owed to the Afrikan peoples which has yet to be paid'.<sup>16</sup> In response, groups were formed at a national level, such as the Africa Reparations Movement in the UK (1993), led by the late MP Bernie Grant, whose early day motion called attention to the Abuja Proclamation and was signed by 46 Labour MPs, including the party's current leader, Jeremy Corbyn.<sup>17</sup>

The three-year preparatory period leading to the UN World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (UNWCAR) would help to consolidate this transnational movement, notably through the work of the Regional Conference for Africa and the Africa

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<sup>10</sup> W.E.B. du Bois, *The Souls of Black Folk* (New York: Dover Publications, Inc., 1994: first publ. Chicago: A.C. McClurg, 1903), p. 22.

<sup>11</sup> Du Bois, p. 24. See, for example, Mary Frances Berry, *My Face Is Black Is True: Callie House and the Struggle for Ex-Slave Reparations* (New York: Vintage, 2006).

<sup>12</sup> See, for example, Doug McAdam, *Political Process and the Development of Black Insurgency 1930–1970* (Chicago: University of Chicago Press, 1999), which locates the roots of twentieth-century black insurgency in the US in the post-abolitionist period. See also Schmidt's *La France a-t-elle aboli l'esclavage?* (2009), which traces the plight of the former slave colonies and the "nouveaux libres" after abolition.

<sup>13</sup> Kehinde Andrews, 'We need to revive the revolutionary spirit of the Pan-African Congress', *The Guardian*, 15 October 2015, <https://www.theguardian.com/commentisfree/2015/oct/15/revolutionary-spirit-pan-african-congress> (accessed 18 August 2017).

<sup>14</sup> Rhoda E. Howard-Hassmann, 'Reparations to Africa and the Group of Eminent Persons', *Cahier d'Études Africaines*, 44 (2004), 81–97 (p. 84 and p. 87). Examples of African-American movements include the founding of the National Coalition of Blacks for Reparations in America (N'Cobra) in 1987 and congressman John Conyers Jr's now infamous H.R.40 bill first submitted in 1989 and every year since: 'H.R. 3745 Commission to Study Reparation Proposal for African Americans Act', 101st Congress (1989–1990), 20 November 1989, <https://www.congress.gov/bill/101st-congress/house-bill/3745> (accessed 11 September 2017).

<sup>15</sup> Michael T. Martin and Marilyn Yaquinto, 'Reparations for "America's Holocaust": Activism for Global Justice', *Race & Class*, 45 (2004), 1–25 (p. 14).

<sup>16</sup> 'The Abuja Proclamation', <http://ncobra.org/resources/pdf/TheAbujaProclamation.pdf> (accessed 22 August 2017).

<sup>17</sup> Bernie Grant, 'Early Day Motion 1987: Abuja Proclamation', 10 May 1993, <http://www.parliament.uk/business/publications/business-papers/commons/early-day-motions/edm-detail/?edmnumber=1987&session=1992-93> (accessed 22 August 2017).

and African Descendants Caucus.<sup>18</sup> They issued calls before and repeatedly during the UNWCAR, the trace of which can be seen in the final Durban Declaration, which not only stated that ‘slavery and the slave trade are a crime against humanity and should always have been so’, but also that ‘victims of human rights violations [...] have] the right to seek just and adequate reparation or satisfaction for any damage suffered’.<sup>19</sup>

The two decades since the UNWCAR have seen a proliferation of reparation campaign that have often run alongside the different anniversaries relating to abolition. Commemorative efforts have, in turn, provoked public interest in understanding the history of slavery and its contemporary consequences. Activism in this area has been additionally bolstered by the emergence of newer campaigns, such as the CRC’s calls for European governments to participate in the ‘Caricom Reparations Justice Programme’, and by international support, including the UN Working Group of Experts on People of African Descent and their recent calls for the US to engage in a process of reparatory justice for African-Americans.<sup>20</sup> Although national governments have typically dismissed and/or ignored these calls, support continues to be offered at an international level, which provides these claims with important legal precedents and therefore with a legitimizing framework. Where then, within this global context, can we situate the reparations movement in the French Republic and how ought we to assess the state of the reparations ‘debate’ in France today?

### Legislation: Debating Reparations and the Taubira Law

It was the 1998 commemoration of the 150th anniversary of the abolition decree that propelled the history of slavery back into France’s public consciousness. Unsurprisingly, the official speeches made no mention of the reparations paid to the former masters, preferring to celebrate instead the Republic as a benevolent abolitionist exemplified by Victor Schœlcher. This narrative enabled the state to distance itself from the figure of the enslaver, while simultaneously silencing the connections between the Republic and its repressive colonial practices after 1848.<sup>21</sup> In contrast to the state, over one hundred *associations*, mostly from the overseas departments, organized a silent march in Paris on 23 May 1998 to honour the memory of those who had been enslaved. This resulted in the collection of ten thousand signatures, petitioning the French government to recognize slavery and the slave trade as crimes against humanity. Not only did this echo the calls issued by Glissant, Chamoiseau and Soyinka earlier that year, but also resonated with the action undertaken by the *Comité International des Peuples Noirs* (CIPN) back in 1992 when they protested in front of the Trocadero against the five-hundred year celebrations of Christopher Columbus by calling for slavery to be recognized as a crime against humanity.<sup>22</sup>

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<sup>18</sup> Martin and Yaquinto, p. 14. See also the ‘Report of the Regional Conference for Africa (22–24 January 2001)’, <http://dag.un.org/handle/11176/234465> (accessed 22 August 2017) and the ‘WCAR Report of African and African Descendants’, October 2001, <https://academic.udayton.edu/race/06hrights/OppressedGroups/AfricanDescendants/WCARReport01.htm> (accessed 22 August 2017).

<sup>19</sup> ‘World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance Declaration’, 31 August–8 September 2001, <http://www.un.org/WCAR/durban.pdf> (accessed 22 August 2017), p. 6 and p. 18.

<sup>20</sup> Caricom Reparations Commission, ‘10-Point Reparation Plan’, <http://caricomreparations.org/caricom/caricoms-10-point-reparation-plan/> (accessed 22 August 2017). See also Hilary Beckles, *Britain’s Black Debt: Reparations for Caribbean Slavery and Native Genocide* (Jamaica: University of West Indies Press, 2013). ‘Report of the Working Group of Experts in People of African Descent on its Mission to the United States of America’, 18 August 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/183/30/PDF/G1618330.pdf?OpenElement> (accessed 8 September 2017).

<sup>21</sup> Nicola Frith, ‘“Working Through” Slavery: The Limits of Shared Memories in Contemporary France’, *Irish Journal of French Studies*, 13 (2013), 17–39 (p. 24).

<sup>22</sup> Édouard Glissant, Patrick Chamoiseau and Wole Soyinka, ‘Déclaration du manifeste de 1998 sur l’esclavage’, 11–13 March 1998, <http://www.lesmemoiresdesesclavages.com/centrehistorique.html> (accessed 11 September 2017); Communication du MIR, ‘Guadeloupe: C’est aujourd’hui que le Comité International pour les Peuples Noirs fête son 25ème anniversaire’, <http://theblacklist.net/forum/topics/guadeloupe-c-est-aujourd-hui-que-le-comite-international-pour-les> (accessed 11 September 2017).

In response, Christiane Taubira-Delannon, the former *député* for French Guiana and later Justice Minister, submitted a proposal ‘tendant à la reconnaissance de la traite et de l’esclavage en tant que crimes contre l’humanité’, which called for the creation of a committee of experts to examine ‘les conditions de réparation due au titre de ce crime’.<sup>24</sup> In her report that preceded the first reading, she qualified this statement by suggesting that the committee examine ‘les modalités de réparations, *d’ordre purement moral*, due au titre de ce crime’ (emphasis added).<sup>25</sup> She listed some possible examples, such as improving access to education, rehabilitating sites of memory and attending to the unequal distribution of land and wealth, and made it clear that ‘il ne s’agit en aucun cas d’envisager des indemnisations financières’.<sup>26</sup>

The ensuing debates trace the process by which the legal concept of reparations (which ought to accompany any formal acknowledgement of a crime against humanity) became *politically* severed from the process of providing that recognition. Responses to the inclusion of reparations in the final wording were split. On the right, members of the *Rassemblement pour la République* rejected the proposal, seeing the law as a further example of unnecessary repentance and fearing that it would open the door to financial payments. The left and far left (especially the *Parti communiste français*) pressed for the inclusion of reparations in order to stop the law from becoming ‘un simple affichage politique’ intended to clear one’s conscience, while also ensuring the law would result in real social change.<sup>27</sup>

On 10 May 2001, the law was passed, but with certain compromises. Notably, the role of the committee was settled as guaranteeing ‘la pérennité de la mémoire de ce crime’. This marked a significant departure from its original mission, now with a commemorative remit that was more limited, but less controversial. This telling absence led the Guadeloupean poet, author and historian, Oruno D. Lara, to criticize the law as little more than half-hearted ‘sham’ or a ‘government farce’, and the result of debates that had been ‘carefully orchestrated behind closed doors’ in the context of a period in which reparation movements were gaining momentum during the preparations for the UNWCAR.<sup>28</sup>

What the discussions also reveal are the roots of a discursive and political rupture that has become progressively more entrenched. They suggest two differing concepts of reparations. Voices on the centre and right tended to define reparations as an immoral financial transaction to individual claimants; a form of reparations that was deemed unacceptable across the hemicycle. Whereas voices on the left and far left expressed a desire to nuance the term by including the adjective ‘moral’ in reference to their desire for social justice. Indeed, when evoked in the above debates, reparations are only ever ‘moral’ in a bid to separate this type from the politically unviable idea of financial payments. But the risk of potential misunderstanding and the desire to achieve political consensus, as well as the context of the UNWCAR, resulted in the word being removed, and with it a legislative gap that would kindle a series of social movements dedicate to seeking reparatory justice from the French state and its financial institutions.

### **Political Machinations: Calls for Reparations and the Bicentenary of the Haitian Revolution**

The ‘debate’ on reparations did not end with the passing of the 2001 law. During the successive bicentenary years that marked the death of Toussaint Louverture and the Haitian Revolution in 2003

<sup>24</sup> ‘Proposition de loi tendant à la reconnaissance de la traite et de l’esclavage en tant que crimes contre l’humanité’, 22 December 1998, <http://www.assemblee-nationale.fr/11/propositions/pion1297.asp> (accessed 1 October 2015).

<sup>25</sup> Christiane Taubira-Delannon, ‘Rapport’, 10 February 1999, <http://www.assemblee-nationale.fr/11/rapports/r1378.asp> (accessed 11 September 2017), .

<sup>26</sup> Taubira-Delannon, 10 February 1999.

<sup>27</sup> Danielle Bidard-Reydet warned against ‘la tentation d’une reconnaissance de simple “bonne conscience”’; Sénat, «Reconnaissance de l’esclavage en tant que crime contre l’humanité», 10 mai 2001, <http://www.senat.fr/seances/s200105/s20010510/sc20010510002.html> (consulté le 20 juin 2015). See also Assemblée Nationale, ‘Compte rendu intégral’, 18 février 1999, <http://www.assemblee-nationale.fr/11/cr/html/19990168.asp> (accessed 30 June 2015).

<sup>28</sup> Oruno D. Lara, ‘In Defence of Reparations’, *Black Renaissance/Renaissance Noire*, 3 (2001), p. 147. Taubira notes the forthcoming UNWCAR and that this law would mean that ‘la France pourrait s’enorgueillir d’avoir été le premier État à faire de la traite négrière un crime contre l’humanité’; Taubira-Delannon, 10 February 1999.

and 2004, the matter would repeatedly resurface. This time, however, its focus was more specific since it related to the ‘dette d’indépendance’ or the ‘rançon de l’esclavage’ that the newly formed Republic of Haiti was forced to pay to France in exchange for its freedom.<sup>29</sup> Although the initial sum of 150 million gold francs (1825) was reduced to 90 million in 1838, the ‘debt’ would not be paid in full until 1946, impoverishing Haiti in the process.<sup>30</sup>

In January 2003, Taubira was the first to raise the subject by calling upon the French government to look into the restitution of this ‘debt’, suggesting that ‘L’équivalent de six années de recettes budgétaires de l’Etat haïtienne pourrait servir de base’.<sup>31</sup> Whereas the 1998–2001 debate resulted in the erasure of the term reparations, a new response was provided in 2003, this time using a substitutionary strategy: to avoid the question, the government spoke instead of development aid, thereby suggesting that the ‘debt’ has been retrospectively repaid. Restitution was swept aside by the *Ministère des Affaires Étrangères* who spoke instead of the 83 million euros that France had donated to Haiti since 1994.<sup>32</sup> As a standalone figure, this sum may appear sizeable, but its significance is sharply reduced when placed in the real context of France’s annual development aid budget. The previous year, in 2002, France had given a total of 4,414 billion USD in development aid, of which only 17 million USD went to Haiti, or 0.0004%. Moreover, since 1994, its contributions to Haiti had been steadily falling.<sup>33</sup>

The clouding of the issue through the substitution one term (restitution) for another (development aid) had the additional advantage of enabling the Ministry to seize the moral high ground by implying France’s ‘generosity’ towards Haiti. In doing so, France is repositioned, not as the perpetrator, but as the moral hero, while Haiti becomes the blameworthy party: ‘en dépit de cet engagement massif, peu de résultats ont été enregistrés en termes de développement’; a result that is blamed on Haiti’s ‘mauvaise gouvernement et la dégradation de la sécurité’.<sup>34</sup> France has nonetheless ‘maintenu intégralement son aide à Haïti, en la réorientant [...] vers les actions bénéficiant directement à la population, notamment à la paysannerie’.<sup>35</sup> The suggestion is that where Haiti has failed, France has succeeded and is therefore exculpated from any further responsibility.

This, however, was not the end of the question. A month later, the Haitian president, Jean-Bertrand Aristide, made a more pointed call, issued on the bicentenary of Louverture’s death, which specified that the debt owed amounted to 21.7 billion USD.<sup>36</sup> To contain this problem, a ‘Comité indépendant de réflexion et de propositions sur les relations Franco-Haïtiennes’ was set up under Régis Debray and its report published in 2004.<sup>37</sup> The opening pages dismiss reparations as ‘sans objet’, before accusing Aristide of muddling up history with legal demands that have no ‘fondement juridique, sauf à requalifier juridiquement des actes appartenant au passé et à admettre une inadmissible rétroactivité des lois et normes’.<sup>38</sup> This oft-cited argument where *slavery* is concerned conveniently overlooks the legal

<sup>29</sup> For more on these terms, see Frédérique Beauvois, ‘L’indemnité de Saint-Domingue: “Dette d’indépendance” ou “rançon de l’esclavage”’, *French Colonial History*, 10 (2009), 109–24.

<sup>30</sup> Louis-Georges Tin, *Esclavages et réparations: Comment faire face aux crimes de l’Histoire* (Paris: Stock, 2013), p. 19. See also Louis-Georges Tin, *De l’esclavage aux réparations: les textes clés d’hier et d’aujourd’hui* (Paris: Les Petits Matins, 2013).

<sup>31</sup> Christiane Taubira-Delannon, ‘Question No 9924’, 6 January 2003, <http://questions.assemblee-nationale.fr/q12/12-9924QE.htm> (accessed 3 July 2015).

<sup>32</sup> Taubira-Delannon, 6 January 2003.

<sup>33</sup> All statistics on national aid contributions are available from <http://www.aidflows.org> (accessed 8 July 2015). Specific year contributions from France to Haiti can be found on <http://www.indexmundi.com/facts/haiti/net-bilateral-aid-flows-from-dac-donors> (accessed 8 July 2015).

<sup>34</sup> Taubira-Delannon, 6 January 2003.

<sup>35</sup> Taubira-Delannon, 6 January 2003.

<sup>36</sup> Agence France Presse, ‘Haïti réclame 21,7 milliards de dollars à la France’, *Le Monde*, 7 April 2003, [http://abonnes.lemonde.fr/archives/article/2003/04/07/haiti-reclame-21-7-milliards-de-dollars-a-la-france\\_315970\\_1819218.html?xtmc=aristide\\_et\\_reparation&xtcr=12](http://abonnes.lemonde.fr/archives/article/2003/04/07/haiti-reclame-21-7-milliards-de-dollars-a-la-france_315970_1819218.html?xtmc=aristide_et_reparation&xtcr=12) (accessed 4 September 2017).

<sup>37</sup> Comité indépendant de réflexion et de propositions sur les relations Franco-Haïtiennes (CIRPRFH), ‘Rapport au Ministère des affaires étrangères, M. Dominique de Villepin, du Comité indépendant de réflexion et de propositions sur les relations Franco-Haïtiennes’, January 2004, [http://www.diplomatie.gouv.fr/IMG/pdf/rapport\\_haiti.pdf](http://www.diplomatie.gouv.fr/IMG/pdf/rapport_haiti.pdf) (accessed 30 June 2015).

<sup>38</sup> CIRPRFH, p. 11 and p. 13.

precedent offered by the Matteoli mission and the restitution of Jewish goods, and ignores the fact that the Taubira law's retrospective requalification of previous 'laws and norms' means that these crimes against humanity are imprescriptible; that is, not subject to any statute of limitations.<sup>39</sup>

A month after the publication of the Debray report, Aristide was forcibly removed through a collaborative US–France mission, leading to calls by Caricom and the African Union for a formal investigation. Some analysts have linked this to the mounting popularity of the Haitian president's calls for reparations.<sup>40</sup> While this link cannot be definitively proved, as Tin notes, it is worth adding that shortly after Aristide was replaced with Gérard Latortue (a UN official), the new president 's'empresse d'expliquer que cette demande de réparation et de restitution était tout à fait ridicule, et même totalement illégale'.<sup>41</sup>

### **Litigation: Grassroots Activism and Testing the Case for Reparations**

Silencing Aristide did not mark the end to calls for reparations, any more than the strategic removal of this term from the Taubira law. Notably from 2005 onwards, citizen-led *associations* located in the French Republic would begin exploring litigation routes to legitimize reparations for the descendants of those who had been enslaved. Having achieved a partial legislative victory in 2001, the year 2005 thus marks a new strategic departure being the point at which the 'debate' moves from the political into the legal arena to begin battling its way through the French courts.

The first groups to issue legal proceedings against the French state were the *Mouvement International pour les Réparations* (MIR), formed in 2005 by Garcin Malsa, the former mayor of Sainte-Anne in Martinique, and the *Conseil Mondial de la Diaspora Panafricaine* (CMDP), formed in 2000 by the late historian, Kapet de Bana. Submitted to the *Tribunal de grande instance* in Fort-de-France, the case calls for France to recognize its responsibility for the 'préjudice matériel et immatériel que subit actuellement le peuple martiniquais descendants d'africains déportés et mis en esclavage sur le sol martiniquais'. In a clear reference to the original wording of the Taubira law, it requests the establishment and public financing of a 'collège d'expert' with a remit to 'évaluer le préjudice subi par le peuple martiniquais du fait de ces crimes contre l'humanité'.<sup>42</sup>

It was not until 2008 that the *Tribunal de grande instance* would be recognized as responsible for processing this grievance, while the case was repeatedly deferred until 15 November 2013 when it resulted in a legal dispute over the wording of the Taubira law. The state defended its position by maintaining that 'à aucun moment la loi Taubira n'a prévu de réparation matérielle mais qu'elle parle uniquement de "réparation symbolique et réparation morale"'.<sup>43</sup> In response, the legal team of the associations stated that 'La loi Taubira parle de réparation morale donc implicitement cela induit une réparation matérielle'.<sup>44</sup> Once again, the conceptualization of reparations was split between the meaning of 'moral' and whether or not that implied material consequences. The case was further undermined by the fact that in February 2013, magistrates in France's uppermost legal institution, the *Cour de Cassation*, had ruled in a separate case that the Taubira law was not a normative law. In a worrying contravention of the right of *associations* 'de défendre la mémoire des esclaves et l'honneur de leurs

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<sup>39</sup> Matteoli, December 2000); Décret n°2000-657 du 13 juillet 2000 instituant une mesure de réparation pour les orphelins dont les parents ont été victimes de persécutions antisémites, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000582825> (accessed 4 September 2017).

<sup>40</sup> See Paul Farmer's useful summary, 'Who removed Aristide?', *London Review of Books*, 15 April 2004, <https://www.lrb.co.uk/v26/n08/paul-farmer/who-removed-aristide> (accessed 4 September 2017), pp. 28–31.

<sup>41</sup> Tin, p. 45.

<sup>42</sup> A transcript of the original complaint can be found here: 'Martinique: plainte pour réparation, l'Etat français assigné devant ses propres tribunaux!', <http://archives-2001-2012.cmaq.net/fr/node/21234.html> (accessed 4 September 2017).

<sup>43</sup> R.L., '200 milliards d'euros pour la réparation de l'esclavage', *France-Antilles*, 15 November 2013, <http://www.martinique.franceantilles.fr/actualite/faitsdivers/200-milliards-d-euros-pour-la-reparation-de-l-esclavage-229432.php> (accessed 5 September 2017).

<sup>44</sup> R.L., 15 November 2013.



descendants' against racism and discrimination, the *Cour de Cassation* stated that the Taubira was only declarative — that is, purely commemorative — and could not be used to prosecute those wishing to deny slavery as a crime against humanity (unlike the Holocaust).<sup>45</sup> Hopes were raised once more when in 2014 the *Tribunal de grande instance* in Fort-de-France recognized 'la permanence du prejudice subi par les descendants d'esclaves' and therefore the admissibility of the case, but were dashed when the case was finally thrown out.<sup>46</sup> Worse, by 2017, the French state had reportedly obtained from the Supreme Court an end to all further judicial demands for reparations.<sup>47</sup>

Despite these significant setbacks, the work of these *associations* continues to build momentum at both trans-departmental and regional levels. In 2011, the Guadeloupe-based CIPN joined forces with MIR to organize a conference on reparations, and in May 2017 they lodged a similar grievance to MIR and the CMDP, but this time with the *Tribunal de grande instance* in Basse-Terre, the results of which are pending.<sup>48</sup> Moreover, across the Caribbean region, MIR and the CIPN have responded to the calls issued by Caricom by setting up their own 'national' committees on reparations.<sup>49</sup> Although these committees only hold the status of *associations*, their existence provides an important Francophone voice within a growing Caribbean movement, which will soon be strengthened with the inauguration of a Centre for the Study of Reparations at UWI Mona.

### Commemoration: Hollande's Presidency and 'Moral' Reparations

The above litigation efforts have received only sparse media attention, limited almost exclusively to the regional presses, such as *France-Antilles*. But during Hollande's presidency, the subject of reparations would repeatedly make the national news. The election of a socialist president not only coincided with the increasing momentum of reparations movements worldwide, but also marked the beginning of renewed efforts at political lobbying. Led by the media-canny *Conseil représentatif pour les associations noires* (CRAN), this campaign would result in a 'debate' on reparations being played out in the national media, which in turn led to a discursive shift in the political language being used around slavery commemoration and the strategic endorsement of 'moral' reparations.

Even before Hollande's election, the legitimization of reparations had been making gains, notably after the 2010 earthquake in Haiti when a petition signed by writers, intellectuals and politicians was published in *Libération* insisting once again that France pay back the independence debt.<sup>50</sup> Two years later, the CRAN launched an appeal in *Le Monde* calling for an end to the taboo over slavery reparations by means of a public debate, which was followed by several meetings with the then Prime Minister

<sup>45</sup> Arrêt n° 456 du 5 février 2013 (11-85.909) – Cour de Cassation – Chambre criminelle, [https://www.courdecassation.fr/jurisprudence\\_2/chambre\\_criminelle\\_578/456\\_5\\_27256.html](https://www.courdecassation.fr/jurisprudence_2/chambre_criminelle_578/456_5_27256.html) (accessed 5 September 2017). Loi du 29 juillet 1881 sur la liberté de la presse, Article 48-1, <https://www.legifrance.gouv.fr/affichTexteArticle.do?cidTexte=LEGITEXT000006070722&idArticle=LEGIARTI000006419816> (accessed 5 September 2017). See also Bernard Jouanneau, 'Apologie de l'esclavage avec la "permission" des juges', *Mediapart*, 12 March 2013, <https://blogs.mediapart.fr/edition/les-invites-de-mediapart/article/120313/apologie-de-lesclavage-avec-la-permission-des-juges> (accessed 5 September 2017).

<sup>46</sup> G.G., 'Le mouvement pour la réparation invité du Caricom', *France-Antilles*, 2 November 2014, <http://www.martinique.franceantilles.mobi/actualite/faitsdivers/le-mouvement-pour-la-reparation-invite-du-caricom-278373.php>; Pierre Carpentier, '10 Questions aux candidats sur la Réparation de la traite négrière et de l'esclavage', *Mediapart*, 19 March 2017, <https://blogs.mediapart.fr/pierre-carpentier/blog/190317/10-questions-aux-candidats-sur-la-reparation-de-la-traite-negriere-et-de-lesclavage> (accessed 5 September 2017).

<sup>47</sup> Carpentier, 2017.

<sup>48</sup> 'Esclavage. L'état assigné en justice, décision début septembre', *Ouest France*, 2 June 2017, <http://www.ouest-france.fr/societe/justice/esclavage-l-etat-assigne-en-justice-decision-debut-septembre-5035945> (accessed 5 September 2017).

<sup>49</sup> G.G., 2014. See also CCN, 'Barbade. Le Conseil National Guadeloupéen pour les Réparations tisse des liens avec la Caraïbe', 12 October 2016, <http://www.caraibcreolenews.com/index.php/focus/item/6862-barbade-le-conseil-national-guadeloupeen-pour-les-reparations-tisse-des-liens-avec-la-caraibe>.

<sup>50</sup> Par le groupe de soutien au Comité pour le remboursement immédiat des milliards envolés d'Haïti, 'M. Sarkozy, rendez à Haïti son argent extorqué', *Libération*, 16 August 2010, [http://www.liberation.fr/monde/2010/08/16/m-sarkozy-rendez-a-haiti-son-argent-extorque\\_672275](http://www.liberation.fr/monde/2010/08/16/m-sarkozy-rendez-a-haiti-son-argent-extorque_672275) (accessed 7 July 2015).

Jean-Marc Ayrault in which the issue was reportedly discussed.<sup>51</sup> Indeed, the year 2012 was ripe for associations to begin intensifying their political efforts. Unlike Sarkozy's anti-repentant stance, Hollande had made election promises to support cultural projects relating to colonialism and slavery, and had appointed Christiane Taubira as Minister for Justice and Jean-Marc Ayrault, the former *député-maire* of Nantes (France's foremost slave port), as Prime Minister.<sup>52</sup>

To maximize its media impact, the CRAN's October appeal was published during Hollande's visit to Dakar, Senegal, and Gorée Island, a key site of memory on the UNESCO Slave Trade Route. The national presses reported that Ayrault's government was preparing to discuss the topic of reparations, prompting an urgent response by *Élysée* advisors denying that this was the case.<sup>53</sup> Having been refused a public debate, the CRAN switched to a legal course of action. During the president's first speech for the eighth 'National Day for Commemorating Slavery, the Slave Trade and their Abolitions' (2013), news broke that the CRAN had lodged a case against a major public financial institution, the *Caisse des dépôts et consignations* (CDC), for having administered the debt paid by Haiti to France, and therefore for its complicity in a crime against humanity.

As a result, the 10 May speech of 2013, which had only once attracted significant media attention during its first invocation in 2006, became national news. This time, the president had been forewarned, his address offering an indirect, but clear response to the action taken by the CRAN, summarized by *Libération* as 'oui à la mémoire, non à la réparation matérielle'.<sup>54</sup> 'Le seul choix possible, c'est celui de la mémoire', stated Hollande, while reparations were defined as 'impossibles', using an argument lifted from the Martiniquais politician and poet, Aimé Césaire, whose response to reparations was far more nuanced than the president opportunistically suggested.<sup>55</sup> Although Hollande's response is negative, the year 2013 is significant for being the first time a president uttered publically the taboo of reparations in relation to slavery. What would follow was the emergence of far more explicit distinction between the state's overt support of memory on the one hand and its rejection of reparations on the other.

The only exception to this was in 2015, when the official line appeared suddenly to have shifted. On this occasion, an address was to be given during a presidential tour of the Caribbean, including Haiti, making Hollande the first French president to have made an official visit to the Republic. The 10 May speech was delivered in Guadeloupe during the inauguration of the large-scale memorial project *Mémorial ACTe*. During his address, Hollande turned to the difficult subject of Haiti's 'rançon de l'indépendance' (which had featured once again in le CRAN's 2014 campaign<sup>56</sup>), before making the

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<sup>51</sup> Collectif, 'Appel pour un débat national sur les réparations liées à l'esclavage', *Le Monde*, 12 October 2012, [http://www.lemonde.fr/idees/article/2012/10/12/appel-pour-un-debat-national-sur-les-reparations-liees-a-l-esclavage\\_1774364\\_3232.html](http://www.lemonde.fr/idees/article/2012/10/12/appel-pour-un-debat-national-sur-les-reparations-liees-a-l-esclavage_1774364_3232.html) (accessed 6 July 2014).

<sup>52</sup> Pascal Blanchard, Nicolas Bancel, Françoise Vergès and Marc Cheb Sun, 'Manifeste pour un musée des histoires coloniales', *Libération*, 8 May 2012, [http://www.liberation.fr/culture/2012/05/08/manifeste-pour-un-musee-des-histoires-coloniales\\_817262](http://www.liberation.fr/culture/2012/05/08/manifeste-pour-un-musee-des-histoires-coloniales_817262) (accessed 4 June 2014). For more on Ayrault's work with Nantes-based associations, see Emmanuelle Chéral, *Le Mémorial de l'abolition de l'esclavage de Nantes: enjeux et controverses, 1998–2012* (Rennes: Presses Universitaires de Rennes, 2012).

<sup>53</sup> AFP, 'Matignon réfléchit à "réparer" l'esclavage', *Le Figaro*, 12 October 2012, <http://www.lefigaro.fr/flash-actu/2012/10/12/97001-20121012FILWWW00550-matignon-reflechit-a-reparer-l-esclavage.php> (accessed 6 July 2014).

<sup>54</sup> 'Hollande et l'esclavage: oui à la mémoire, non à la réparation matérielle', *Libération*, 10 May 2013, [http://www.liberation.fr/societe/2013/05/10/esclavage-hollande-refuse-toute-reparation-materielle\\_902048](http://www.liberation.fr/societe/2013/05/10/esclavage-hollande-refuse-toute-reparation-materielle_902048) (accessed 1 July 2014).

<sup>55</sup> François Hollande, 'Déclaration de M. François Hollande, Président de la République, sur la traite, l'esclavage et leurs abolitions', 10 May 2013, <http://discours.vie-publique.fr/notices/147001022.html> (accessed 18 June 2014). See also Nicola Frith, 'Saving the Republic: State Nostalgia and Slavery Representations in Media and Political Discourses', *Modern & Contemporary France*, 23 (2015), 213–32 (p. 224).

<sup>56</sup> In 2014, the CRAN was joined by the *Ligue internationale contre le racisme et l'antisémitisme* (Licra), the *Ligue des droits de l'Homme* (LDH) and a number of trade unions to call for the restitution of Haiti's 'debt', as well as the creation of a 'fond national de soutien aux réparations' funded by business and institutions that had historically benefited from slavery; Licra, 'Abordons la question des réparations de l'esclavage', 9 May 2014, <http://www.licra.org/communiqu/abordons-question-des-reparations-l-esclavage> (accessed 7 July 2015); Anne

unprecedented statement that his forthcoming trip to Haiti would be marked by a settlement of that same debt: ‘quand je viendrai en Haïti j’acquitterai à mon tour la dette que nous avons’.<sup>57</sup>

The statement might have been greeted with a standing ovation, but it gave rise to a brief moment of political panic, with the *Élysée* issuing an immediate counter-response that quashed any suggestion of financial restitution and confirmed that Hollande was referring to a ‘dette morale’ only.<sup>58</sup> The French press saw Hollande’s bold remark as a political and diplomatic ‘gaffe’, further exacerbated by images of the president being assailed by ‘groupes de manifestants, soigneusement tenus à l’écart, [qui] réclamaient à grands cris “restitutions” et “réparations”, ou encore affichaient une pancarte [...]: “Argent oui, morale non”’.<sup>59</sup> Unsurprisingly, his speech in Haiti was a rather more muted affair, with the president focusing on the heroes of emancipation and revolution, while the history of slavery was largely swept aside in favour of a narrative about French-Haitian solidarity.<sup>60</sup> The repayment of the debt, while not explicitly mentioned, amounted to promises to contribute to Haiti’s educational programme and professional development, and build a new Institut Français.

In the speeches of 2016 and 2017, only indirect references were made to debts owed or reparations, which continue to be dismissed using Césaire’s extrapolated quotation.<sup>61</sup> More interesting perhaps is the discursive shift from ‘un devoir de mémoire’ in the earlier speeches to a new desire for ‘un devoir d’action’, which was linked to the announcement of Hollande’s legacy project: the ‘Fondation pour la mémoire de l’esclavage’. This long-awaited memorial project, promised under Chirac and shelved under Sarkozy, will now finally see the light of day under Macron.<sup>62</sup> Hollande reaffirmed the state’s commitment in his final address in 2017 when spoke of the need to go ‘jusqu’au bout de la reconnaissance’, which is not reparative justice, but rather an institutional form of cultural memorialization.

## Conclusions

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Chemin, ‘La traite en héritage’, *Le Monde*, 2 May 2014, [http://www.lemonde.fr/societe/article/2014/05/02/la-traite-en-heritage\\_4410558\\_3224.html#LhAiOA5tlBGQCjBd.99](http://www.lemonde.fr/societe/article/2014/05/02/la-traite-en-heritage_4410558_3224.html#LhAiOA5tlBGQCjBd.99) (accessed 6 July 2015).

<sup>57</sup> François Hollande, ‘Discours du président français lors de l’inauguration du Mémorial ACTe à Guadeloupe’, 10 mai 2015, <http://www.elysee.fr/videos/discours-lors-de-l-039-inauguration-du-memorial-acte/> (consulté le 13 mai 2015).

<sup>58</sup> Laure Bretton, ‘En Haïti, Hollande répare sa boulette de la dette’, *Libération*, 12 May 2015, [http://www.liberation.fr/politiques/2015/05/12/a-haiti-hollande-repare-sa-boulette-de-la-dette\\_1308411](http://www.liberation.fr/politiques/2015/05/12/a-haiti-hollande-repare-sa-boulette-de-la-dette_1308411) (accessed 7 July 2015).

<sup>59</sup> David Revault d’Allonnes, ‘Hollande en Haïti: “On ne peut changer l’histoire, on peut changer l’avenir”’, *Le Monde*, 12 May 2015, [http://www.lemonde.fr/politique/article/2015/05/12/hollande-en-haiti-on-ne-peut-pas-changer-l-histoire-on-peut-changer-l-avenir\\_4632478\\_823448.html#FjIaItdlHWkEzKvq.99](http://www.lemonde.fr/politique/article/2015/05/12/hollande-en-haiti-on-ne-peut-pas-changer-l-histoire-on-peut-changer-l-avenir_4632478_823448.html#FjIaItdlHWkEzKvq.99) (accessed 13 May 2015).

<sup>60</sup> ‘La France s’est toujours portée aux côtés d’Haïti, sans doute parce qu’elle était consciente de l’histoire que nous avons unie, [...] mais aussi parce que la France, elle est animée d’un esprit qui est celui qui a toujours donné du sens aux combats que nous avons menés, pas simplement pour nous-mêmes, mais pour une cause universelle’; François Hollande, ‘Discours du président français lors de sa visite officielle en Haïti’, 12 May 2015, <http://www.elysee.fr/videos/discours-a-port-au-prince/> (accessed 26 June 2015).

<sup>61</sup> ‘L’esclavage, comme l’avait dit Aimé Césaire, n’est et ne sera jamais une “note à payer”, mais un devoir d’action’; François Hollande, ‘Déclaration de M. François Hollande, Président de la République, sur la mémoire de l’esclavage’, 10 May 2016, <http://discours.vie-publique.fr/notices/167001425.html> (accessed 11 September 2017). See also François Hollande, ‘Déclaration de M. François Hollande, Président de la République, sur la mémoire de l’esclavage’, 10 May 2017, <http://discours.vie-publique.fr/notices/177001044.html> (accessed 11 September 2017).

<sup>62</sup> Note, however, that the original project defined by Édouard Glissant in *Mémoires des esclavages: La Fondation d’un centre national pour la mémoire des esclavages et de leurs abolitions* (Paris: Gallimard, 2007) is different from that outlined in the ‘Rapport de préfiguration’, and has resulted in withdrawal of the Institut du Tout-Monde from all further planning; ‘Mémoire de l’esclavage, devoir d’avenir. Rapport de préfiguration de la Fondation pour la mémoire de l’esclavage, de la traite et de leurs abolitions’, March 2017, <http://www.ladocumentationfrancaise.fr/rapports-publics/174000191/index.shtml> (accessed 11 September 2017).

This brief analysis spanning a twenty-year period, from the debates over the Taubira law to the end of Hollande's presidency, reveal both consistencies and divergences in political attitudes towards reparations. Consistency lies in the state's anxious desire to privilege the supposedly unifying processes of memorialization over any politically risky engagement with the 'divisive' subject of reparations, while discursive shifts can be noted in the state's increasing willingness to use the vocabulary of reparations, but only on its own terms. The actions of activists have, at times, successfully forced reparations into the public domain, but this has only given rise to a new political discourse on 'moral reparations' designed to shut down the potential for a meaningful discussion on the consequences of slavery. The use of this phrase during Hollande's mandate is a far cry from the kinds of ethical forms of reparative justice suggested during the discussions on the Taubira law, its usage now functioning as quick way to dismiss 'material' reparations as illegitimate. Within this restrictive framework, no space is given to reflect more deeply on what 'material' reparations might look like. Instead, they are deemed 'impossible', immoral, even anti-republican and a risk to social cohesion.<sup>63</sup> Within the hands of the political elite, the important process of remembering slavery has thus become a means to avoid any engagement with addressing its ongoing effects in society today.

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<sup>63</sup> For example, a public statement issued by the *Ministère des Outre-mers* stated that, 'La mémoire et la transmission de la mémoire constituent la seule réparation valable à ce crime contre l'humanité. Elle est infiniment plus importante et unificatrice qu'une compensation financière, toujours source de divisions' ; Ministère des outre-mers, 'Journée nationale de commémoration des abolitions de l'esclavage: La mémoire et la transmission de la mémoire, seule réparation valable à ce crime contre l'humanité', 15 May 2013, <http://www.outre-mer.gouv.fr/?journee-nationale-de-commemoration-des-abolitions-de-l-esclavage-la.html> (accessed 1 July 2014).